

C/m

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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CHERRY GROVE BARRIER BEACH  
CORP., and FIRE ISLAND RESTAURANT  
CORP., doing business as TOP OF THE  
BAY RESTAURANT,

ORDER

Plaintiffs, CV 05-4492  
-against- (Wexler, J.)

TOWN OF BROOKHAVEN,

Defendant.

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TOWN OF BROOKHAVEN,

Third Party Plaintiff,

-against-

H2M GROUP, HOZMACHER, McLENDON &  
MURRELL, P.C. and RONBACK MARINE  
CONSTRUCTION CORP.,

Third Party Defendants.

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APPEARANCES:

Plaintiff Pro Se

L'ABBATE, BLAKAN, COLAVITA & CONTINI, LLP  
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WEXLER, District Judge

In an order dated September 21, 2006, this court granted the motion of Frederick P. Stern & Associates, P.C. to withdraw as counsel for Plaintiffs. The order granting withdrawal set down this matter for a conference to be held on October 6, 2006. Plaintiffs neither appeared at the conference nor informed the court as to whether they had secured new counsel. Noting that Plaintiffs, as corporate entities, are not permitted to proceed without counsel, the court set this matter down for a second conference to be held on October 19, 2006. At the time the conference was scheduled, the court stated that in the event that Plaintiffs failed, again, to appear at the conference with new counsel, this case would be dismissed with prejudice and the third party action would be remanded to the state court.

On October 19, 2006, Stephen Caputo, Esq. appeared before the court. Mr. Caputo stated that he represented the new owner of the property at issue in this matter but that he was not authorized to enter an appearance on behalf of Plaintiffs. Caputo agreed that he would make a determination as to whether, as the new property owner, he was assigned the right to pursue this litigation. Mr. Caputo has recently informed the court that he did not uncover any document assigning the right to pursue this litigation to the new property owner and that he would not be appearing on behalf of Plaintiff.

In view of the fact that Plaintiffs, all corporate entities, have failed to secure counsel, despite being given every opportunity to do so, this court orders that this action be dismissed

with prejudice. The third party action is hereby remanded to New York State Court.

The Clerk of the Court is directed close the file in this matter and to remand the third party action to the Supreme Court of the State of New York, County of Suffolk.

SO ORDERED.

  
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LEONARD D. WEXLER  
UNITED STATES DISTRICT JUDGE

Dated: Central Islip, New York  
March 21, 2007